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SYSTEMS FOR MANAGING CHILD MALTREATMENT IN AUSTRALIA
A STUDY OF THE SIX STATES

PREFACE

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Child abuse constitutes a social problem whose dimensions we cannot yet quite grasp and whose causes are as multi-faceted as they are difficult to identify. Over the past two decades or so, ever since the re-awakening of interest in the topic, there has been an abundance of theorising and speculating about causes of child abuse. Theories which attempt to explain child abuse have ranged from the individual – psychological and specific deviant behaviour (like alcoholism and other types of addiction) – to socio-economic factors, faulty child-parent relationships, lack of family support resources and many more. Each of these theories, even if underdeveloped, has something to contribute to our understanding but none, by itself, has enabled us to say that if only we concentrate our resources on it we will be able to tackle child abuse at its very roots. What we have begun to learn is that we are dealing with a complex situation.

In Australia we are beginning to clarify the various forms that child abuse can take; we can identify at least four major forms: physical, sexual, emotional and mental. In these cases we can visualise someone doing something to a child that is harmful and non-accidental – in other words someone committing harm. Abuse can also occur by a failure to do something to or for a child, or neglecting to do something; here we can speak of abuse through omission. This is why some writers and practitioners use the term "child abuse and neglect" rather than "abuse" by itself.

Quite apart from its different forms, we must also consider that child abuse occurs at more than one level of interaction. We have become accustomed to discussing and describing child abuse at one level only. That level is the individual-to-individual interaction, so that it needs to be pointed out that child abuse can also occur at a second level, that is where children are (usually) part of a group and in the charge of one or more adults other than their parents. This is referred to as institutional abuse. Such abuse may occur where children are placed in a children's home which is badly run or where children are looked after by some perverse or violent adult in a group setting. Then there is a third level, which is referred to as the societal level, which has to do with the social and economic circumstances and practices followed in a whole society which can be pro or anti children, promote or retard development, nurture or exploit, protect or expose children. At each level acts of commission or omission can constitute child abuse.

It is important to take a wide as well as a narrow view of child abuse so that attention can be focused equally on the attitudes and behaviour of the actors at all three levels, not just one as was the case at one time.

To find a suitable definition to cover these three levels of child abuse is not easy and the one offered here is an attempt to encompass as many of the variants as possible:

> "Child abuse in its widest sense means the curtailment of normal development of a child occasioned by deliberate or neglectful action by an individual, a group of people, or even a whole society. In its narrower sense, child abuse occurs when a child experiences some physical, emotional or mental damage occasioned other than through accident, by the behaviour of one or more individuals.

While the search for explanation and clarification of the phenomenon goes on the problems of child abuse have to be tackled at a practical level. In Australia child protection is a State responsibility and government agencies, notably community welfare, police, health and law departments, are developing resources and skills, in conjunction with non-government and self-help initiatives, to offer a comprehensive and integrated service.

This study reported upon here is concerned with activities of State community welfare departments to see what stage they have reached in the development of protective services. The study was undertaken to shed some light on the resources that are being made available and the processes of intervention that are emerging in this area.

Interestingly, if such a study had been undertaken a couple or so decades ago, it is certain that very little would have emerged that would have led one to believe that child abuse was considered much of a problem, or if it was, that much was done to tackle it.

RATIONALE

The origins for this project lie in the discussions and subsequent ferment of ideas that stemmed from the periodic meetings of a group of people who had an interest in the area of child maltreatment, in Melbourne during 1985. The meetings themselves orginiated from the requests by Dr. Terry Carney for responses to his committee's discussion paper on reforms to Victoria's child welfare legislation (Child Welfare Review Committee, 1984). Members were particularly anxious to try to unearth some of the conceptual issues that flowed from the discussion paper and eventually reached a point where they considered that there were weaknesses in approaching conceptualisation from the angles of theoretical stances or professional ideologies; instead, it was considered that perhaps an easier approach might be found by exploring the idea of using a management model. This, it was thought, could be arrived at by describing how a system of protection of children works, or is said to work, and what features emerge from its study.

The reason for choosing a management model was determined by the fact that over the past two decades operational systems of child protection have emerged in each of the six States in such a way that they have become an easily identifiable work segment within the more general context of child welfare legislation and practice, capable of being studied and described. The use of the term "system" is deliberate as it denotes coherence, logical sequencing, order and plan, all inherent in the characteristics here under study. The question whether these child protection systems work well or not or whether one State model is superior to those of other States is not tackled in this project. In fact this study has strict boundaries. It confines itself to an overview of some of the essential legislative and administrative features of each State's system as set out through documentation. It is a *study of what practitioners are expected or sometimes mandated to do. What they actually do* as distinct from what they *are intended to do* was not studied. Studies of actual practice, of course, are necessary if we are ever to arrive at some evaluation of the superiority of one model of child protection over another. For a start it is necessary to obtain a picture of wwhat the States have already set up or are about to set up by way of a child protection system. This study presents the first attempt to provide a State by State description from which common and differing elements may emerge. If it is considered that the

commonalities exceed the differences, it should be possible to begin to talk about Australian child protection model. However, that is the matter of individual preference and interpretation.

Apart from noting that this study confines itself to an overview, largely of what the systems look like on paper, it may also be useful to point out a few other qualifications. This is essentially a "snapshot" project, that is to say it was produced by a time-limited look. Child protection systems are evolving quite rapidly and changes are constantly being made to the legislation and to practice in organisation of resources, changes in personnel and so on. What has been done here is to provide a picture of what a system actually looked like in one particular month in 1986, but also pointing out or even incorporating changes which were imminent. For instance, in New South Wales, Tasmania and Queensland respectively, new legislation was either about to be introduced into Parliment or to be proclaimed and it seemed unnecessarily pedantic to exclude these developments from the study. Another point is that inevitably the study reflects the researcher's own particular interests in child protection. As may now be surmised, these are largely in the organisational features of the system, but go beyond that. It seems therefore only fair to present these interests here in summary form so that readers may decide for themselves whether they share them or not.

This researcher believes that the essentials of a *good* child protection system should include:

1. a clear statement that the child's rights to protection are paramount, if necessary superior to the rights of other persons;
2. a clear line of management responsibility from identifiable persons at the point of receiving a notification of abuse right up to the person with ultimate responsibility – a departmental director or minister;
3. ensuring that once a child is notified as abused, he or she does not get "lost" in the system; thus a clear process of monitoring and review of cases is necessary;
4. ensuring that all agencies involved in child protection work pull together, which suggests that a sound system of co-ordination is operated under the aegis of the person who must bear ultimate responsibility;
5. clear indication that the resources for child protection, from legislation to "hands on practice" are devoted to the child rather than to the benefit of practitioners;
6. the desirability that the community is involved in and kept informed about developments in child protection;
7. ensuring that people who need services actually know to whom to turn for help, especially in cases of emergency; this suggests localising as far as possible at least the initial case management;
8. ensuring that a child protection system is not isolated from other helping services but forms part of an integrated system of human services.

Not all these essentials were canvassed in this study, to do so would have taken a great deal more research resources than were available. However even with what was studied, a picture emerged that made it possible to suggest the directions which we were taking in Australia. This will be dealt with in later sections of this paper.

Before going on to the next section it may be of value to say something about some of the terminology used in this study. The writer has tried to avoid being pedantic over the wording used in legislation or administrative documentation. Whilst being aware of the often minute distinctions which can arise from the use of a particular word or phrase, it was not thought necessary to reflect these accuracies, except when it became desirable to do so to make a point or to stress a subtlety. For that reason when legislation is referred to, paraphrasing is more often than not used; thus, for example, distinctions in age groupings between "child" and "young persons" are usually ignored, the word "child" being used to cover both groups.

Similarly, the term "child protection" is used in a generic sense, rather than "child abuse" or "child maltreatment". The reason for that preference is that it reflects the recognisable elements of statute-based or administrative process. Child protection, in this sense, commences with a notification of suspected or incurred harm to a child, which can then lead on to investigation and assessment for further action, with specified injunctions or guidelines for different stages of the process, leading where necessary to court action. Child protection is a useful term of description for that reason. From time to time, however, "child abuse" or "child maltreatment" may also appear, usually being used synonymously.

METHODOLOGY

The study is basically descriptive of child protective systems allegedly in operation or just about to be launched in Australia. Documentation was collected from the six States in 1985 and 1986. This consisted largely of work manuals and protocols, in-house position and discussion papers, Acts of Parliments and Regulations, annual reports and explanatory notes and commentaries. From a study of these a questionnaire was produced and this served as a guide for semi-structured interviews with key personnel in all the States. Visits to the capital cities of the States were made in 1985 and 1986 for this purpose. The writer acknowledges the help received from a large number of people during this study.

Following the visits, data and information was compiled and collated under a number of headings, viz.:

1. major sources of legislation – including impending changes;
2. definition of child abuse;
3. primary responsibility for management of child protection;
4. notification – requirements and format;
5. investigation process – including special provisions;
6. case management – including monitoring and review;
7. personnel in child protection – including training;
8. involvement of other public agencies;
9. involvement of other agencies or bodies;
10. trends in statistics of incidence;
11. summary comment.

It will be noted that the components studied add up to a limited version of a child protection system. No attempt has been made to look at the burgeoning network of preventative and family support measures and programmes that have become an integral feature of such systems in each of the States. The overview also stops short at the point of initial case handling so that the longer lines of taking a child into extended care or handling by a public or non-public agency or proceeding to a children's court and its possible avenue of diposition are equally excluded.

CHILD PROTECTION SYSTEMS IN AUSTRALIA: A BRIEF HISTORICAL PERSPECTIVE

What is offered here by way of a historical perspective is really little more than a brief chronology of dates and events. The history of child protection in Australia remains to be written, providing a rich vein for a future historian to work as the subject is rooted in the social history of this country.

1. It may of course be argued that child protection often commences before notification, but this ante-notification stage does not form part of this study.

That there is a specifically child protection history to be addressed without doubt. In at least two States, Children's Protection Societies were formed in the past – one of them in Victoria dating back to 1894, but we know next to nothing about their origins or the events that accounted for their formation.

Our historical note here commences with the re-awakening of concern about child abuse which originated in the U.S.A. in the 1960's with the work of Henry and Ruth Kempe and colleagues at the Denver, Colorado Medical Centre, who became convinced that the phenomenon of child abuse was alive and flourishing, and who startled the world with their revelations of "baby battering". (2.) The Kempes' efforts had been preceded by some patient and long-term work by certain U.S. radiologists, led by John Caffey, who published their findings on unexplained fractures and haematoma found on young children. (Kempe and Kempe, 1978)

The publicity given to child abuse in the U.S.A. spread to other countries in the mid-1960's and articles began to appear in the medical press about that time in Australia on the topic of "baby-battering syndrome" (Wurfel and Maxwell, 1965; Birrell and Birrell, 1966), and a little later in the social work journals (Brazier and Carter, 1969). The professional community and the media began to speak out and soon a number of States embarked on reconsidering their child protection measures. Arguably South Australia was the first to take action, but it could equally have been Western Australia. Certainly in 1968 the South Australian Social Welfare Advisory Council made a report to its Minister following its investigation of child abuse in the State. Similarly Victoria set up a committee of enquiry in 1967 as a result of public pressure. At the same time, in some States, for instance Western Australia and Tasmania, some specific child abuse incidents involving children gave rise to the promotion of official responses, from the public bodies who accepted some responsibility for what happened.

By 1970 Western Australia had set up its Child Life Protection Unit, the first specialist protective service to be created within an Australian welfare department, and by 1971 the Tasmanian State government had appointed an advisory panel to manage all notified cases. In the following year South Australia introduced compulsory notification of child abuse cases, though confined to medical practitioners. By the mid-70's all States were busy setting up programmes of prevention and sharpening up their protection systems. Two reports – one in South Australia by the Community Welfare Advisory Committee in 1976, the second such report in an eight-year span; and another in Victoria by the Child Maltreatment Workshop, also in 1976 – led and reflected much of the thinking at that time at least in professional circles. In particular, the notions that child abuse was a problem with multi-faceted responses, that it was a pervasive problem to which which many families could be prone, that children were too precious a resource to be ignored and that, in any case, they had the rights to a good upbringing which was a shared responsibility between their parents and the community, all found a prominent place in these reports.

Further interest had been sparked by the first Australian conference on the "battered child" which took place in Perth in 1975 and helped the debate along.

The decade since then has seen specific child protection systems emerge in all the States. Each now has developed a range of responses and has a pretty good idea of the incidence and prevalence of the child abuse problem in its jurisdiction. From virtually no identifiable programmes for dealing with protection apart from those narrowly devoted to child rescue, to programmes which in Jan Carter's words involve "the summoning of an appropriate range of services on a non-compulsory basis, to reinforce and enhance the caring capacity of the family for the child", (Carter, 1983), in a matter of something less than two decades, may be termed good progress. When we take into account that this involved convincing the public and six separate State governments and their usually slow-moving, cumbersome bureaucracies that there really was a problem of substancial dimensions, the good progress becomes excellent.

One of the interesting features of the emerging child protection systems is the way their policies and operations have become the responsibility of community welfare services departments. (3.) At one point in time it looked as though health departments would take primary responsibility but the focus of child protection has shifted from an essentially medical approach to one much more aligned with social and human services approaches. There has so far been little dsagreement with the appropriateness of the child protection services being provided by the so-titled, or similarly titled, community services departments. They are chartered with responsibility for family support including where necessary the reception and subsequent public care of children. They have thus been well placed to mobilise and encourage the formation of community based mutual help groups, work closely with a number of non-public child welfare and family support agencies, and generally emerge as stronger political forces largely because of the increase in their work loads occasioned by their child protection functions. The community after all provides the context of child abuse and it is rational to enlist that government department which has a broad responsibility for promoting community programmes to exercise protection roles – not that those roles sit snugly with all practitioners in these departments. There is undeniably a coercive, social control element in child protection work is sometimes seen as inimical to the goals of these departments. This social control element is also responsible for occasionally producing uneasy relationships between practitioners in the community welfare departments and other public agencies, notably the police. Some of these feelings of unease certainly emerge in the research and have been noted by other observers. (Goddard, 1979).

(2.) *The Kempes attribute the term "baby battering" to Ambroise Tardieu, Professor of Legal Medicine, in Paris, 1868.*

(3.) *Tasmania is an exception, placing responsibility for protection on an independent Child Protection Assessment Board, under the Attorney General's Department.*